

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

**UNITED STATES
DEPARTMENT OF JUSTICE, *et al.*,**

Defendants,

Civil Action No. 1:18-cv-06471-ER

CITY OF NEW YORK,

Plaintiff,

v.

JEFFERSON B. SESSIONS III, *et al.*,

Defendants,

Civil Action No. 1:18-cv-06474-ER

DEFENDANTS' NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Opposition to the Plaintiffs' Motion for Partial Summary Judgment and in Support of the Defendants' Motion to Dismiss, or alternatively, Partial Summary Judgment, the Defendants' Local Civil Rule 56.1 Statement of Material Undisputed Facts, the Declaration of Nancy Trasande with attached exhibits submitted by the plaintiffs, the Declaration of Francisco Madrigal, and the Declaration of Tracey Trautman, the United States Department of Justice and Attorney General Jefferson B. Sessions III, defendants in the matters styled above, jointly move this Court before the

Honorable Edgardo Ramos, United States District Court Judge in the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, Courtroom 619, 40 Foley Square, New York, NY 10007, at a date and time to be determined by the Court, for an order granting dismissal of the plaintiffs' amended complaints under Fed. R. Civ. P. 12(b)(6) or summary judgment to the defendants under Fed. R. Civ. P. 56.¹

PLEASE TAKE FURTHER NOTICE that Defendants request oral argument in connection with their motion; and pursuant to the agreed upon schedule so ordered by the Court (ECF No. 47), Defendants will file a combination motion to dismiss and opposition, or, alternatively, a motion for summary judgment and opposition to Plaintiffs' motion by September 14, 2018; Plaintiffs will file their opposition to the motion to dismiss/motion for summary judgment and reply in support of their motion by September 26, 2018; and Defendants will file their reply by October 8, 2018.

¹ Per the agreement of the parties (ECF No. 44 in the States Case) and the Court's endorsement of that agreement by order of August 14, 2018 (ECF No. 47), the parties are addressing the Fiscal Year 2017 Byrne JAG conditions challenged in Counts I through V of both Amended Complaints in the current round of briefing, while the Fiscal Year 2018 Byrne JAG conditions challenged in Counts VI through X of both Amended Complaints "will be addressed in [a] separate round of briefing to be scheduled at a later date." Order of Aug. 14, 2018, at p. 2 (ECF No. 47). As such, the Defendants reserve their right to challenge the FY 2018 counts of the Amended Complaints under Fed. R. Civ. P. 12 and 56 at that later time to be scheduled by the Court.

Respectfully submitted,

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Assistant Attorney General

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Principal Deputy Assistant Attorney General

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Deputy Assistant Attorney General

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/s/ Daniel D. Mauler
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CERTIFICATE OF SERVICE

I certify that on September 14, 2018, I filed the foregoing document with the Clerk of Court via the CM/ECF system, causing it to be served electronically on all counsel of record.

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